

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH MUMBAI

ORIGINAL APPLICATION NO:514.2000

DATE OF DECISION: 4.1.2001

Shri G.S. Yadav Applicant.

Shri G.S. Walia Advocate for
Applicant.

Versus

Union of India and others Respondents.

Shri Suresh Kumar Advocate for
Respondents

CORAM

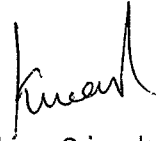
Hon'ble Shri Kuldip Singh, Member (J)

Hon'ble Ms. Shanta Shastry, Member (A)

(1) To be referred to the Reporter or not?

(2) Whether it needs to be circulated to
other Benches of the Tribunal?

(3) Library.


(Kuldip Singh)
Member (J)

NS

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO:514/2000

THURSDAY the 4th day JANUARY 2001.

CORAM: Hon'ble Shri Kuldip Singh, Member (J)

Hon'ble Ms. Shanta Shastry, Member (A)

G.S. Yadav
Residing at
Flat No.3, Sky Scraper,
Mumbai Central, Mumbai.

...Applicant.

By Advocate Shri G.S. Walia.

V/s

1. Union of India through
General Manager
Western Railway,
Churchgate, Mumbai.

2. Chief Personnel Officer
Western Railway,
Churchgate, Mumbai.

...Respondents.

By Advocate Shri Suresh Kumar.

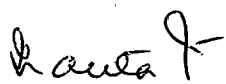
ORDER (ORAL)

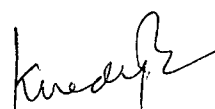
{Per Shri Kuldip Singh, Member (J)}

In this application the applicant is challenging the action of the respondents whereby they are charging Damage/Market rent and deducting the same from the pay of the applicant allegedly without following the principles of natural justice and without following the procedure under Section 7 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971. The applicant is also aggrieved by the department for taking up a proceeding against the applicant under the P.P. Act for evicting the applicant. The said eviction has been stayed by the City Civil Court by order dated 8.6.2000. The applicant states since he is occupying the premises ^{work} under the protection of the said order. Therefore it cannot be stated that the Applicant is ^{an} ~~an~~ Unauthorised Occupant of the said Railway quarter.

2. In support of his contention the applicant has relied on judgement 1992 ATC (21) 735. In which the Tribunal had observed that if the employee is protected under the Government order to occupy the quarter then the respondents are not entitled to charge damage/ market rent. On the contrary the counsel for the respondents submitted that the protection is granted by an order which is interim in nature and as per Hon'ble Supreme Court *judgment* reported in 1999(7) SCC 89, wherein it is held, " It is settled principle of law that when a party applies and obtains a stay from the Court ~~of~~, it is always at his own risk and responsibility - Mere passing ~~of~~ an order of stay cannot be presumed to be conferment of any additional right upon the litigating party.

3. Be that as it may, as ^{on} ~~stands~~ today the applicant is occupying the premises under the order of the City Civil Court and the order is in operation, the applicant cannot be called upon to pay damage/market rent from the date the interim order is passed. However if the interim relief is not confirmed or set aside by the City Civil Court the consequences of the order will be followed. In view of the circumstances we direct the respondents not to charge damage/market rent so long as the order of the City Civil Court is ^{operating in} ~~pending~~ with effect from the date it was passed by City Civil Court. The respondents are at liberty to take action in accordance with law as per result of the appeal of applicant. The OA is disposed of accordingly. No costs.


(Ms. Shanta Shastri)
Member(A)


(Kuldip Singh)
Member (J)